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whereby he agreed to do the work and bear the expense of the crop, and in return was to have the crop. While the prunes were growing on the trees, he sold them to the plaintiff. Subsequently the defendant, as sheriff, took possession of the crop under a writ issued on a judgment against the wife; the prunes being on the homestead. It was shown that she was insolvent at the time she entered into the above agreement with her husband and continued so. *Held*, that the plaintiff was entitled to the crop: *Rosenberg Bros. & Co. v. Ross* (1907), — Ct. App. Cal. —, 93 Pac. Rep. 284.

The defendant attacked the validity of the transaction between husband and wife, on the ground that there was no delivery within the meaning of the statute requiring immediate delivery and continued change of possession. But growing crops are an exception to this rule. In *Bernal v. Hovious*, 17 Cal. 542, A. worked B.'s farm and was to receive a part of the crop. X., a brother of A., lived with A. and bought his brother's interest in the crops. After the grain had been put in sacks, but before any division between X. and B., it was levied on as the property of A. and B. The plaintiff was allowed to recover his grain. A sale of growing crops is not one of an interest in land and may be oral. *Davis v. McFarlane*, 37 Cal. 634. In *Ticknor v. McClelland et al.*, 84 Ill. 471. John McClelland sold standing corn, stacks of hay, and other personality to his sons. They left all in his care. A judgment creditor of the father took out execution and levied on the property. The vendees were allowed to recover only the corn and the hay. In *Vaughn v. Owens*, 21 Ill. App. 249, H. sold a crop of corn to V., H. agreeing to gather the crop and put it in a crib on the vendor's premises. Nearly a month after the corn was in the bin, the defendant levied upon it as the property of H. The court said, "the cribbing of the corn at the place agreed upon by H., was a sufficient delivery to" V. In *Emery v. Scarlett*, 8 Pa. Co. Ct. R. 123, the owner of growing wheat sold it to the plaintiff and agreed to thresh and deliver it at the nearest railroad station. The wheat was stored in the sheaf in the vendor's barn for six weeks, when a judgment creditor of the vendor levied upon it. The delay was held not to prevent constructive possession from being in the vendee. But in *Smith v. Champney*, 50 Iowa 174, on a similar state of facts, except that the vendor was to deliver the crop, when harvested, on the vendee's premises, the court held there was not sufficient change of possession, and said the vendee must begin to harvest the crop or otherwise to take visible control of the corn or the field; but considerable emphasis was placed on the wording of the statute. The doctrine of the principal case is followed in *Cummings v. Griggs*, 63 Ky. (2 Duv.) 87; *Morton v. Ragan*, 68 Ky. (5 Bush.) 334.

GARNISHMENT—EXEMPTION—PROCEEDS OF INSURANCE.—Defendant company being indebted upon a policy of insurance to plaintiff, and plaintiff being a judgment debtor of one S., the latter sued out a writ of garnishment against defendant company. The company answered admitting its indebtedness, whereupon plaintiff intervened, claiming the money. The property insured was used by plaintiff in his business as a restaurateur and was exempt from execution. *Held*, that the proceeds of an insurance policy on articles

exempt from execution are not subject to garnishment in the hands of the insurance company. *Geise v. Pennsylvania Fire Insurance Co. et al.* (1908), — Tex. Civ. App. —, 107 S. W. Rep. 555.

The narrow issue here presented has caused the courts considerable difficulty, giving rise to two distinct lines of authority reaching diametrically opposite conclusions. I. The Courts of New Hampshire, Illinois, and Mississippi hold that an insurance company is liable as garnishee of the insured after a loss though the property insured was exempt from attachment and execution. *Wooster v. Page* (1873), 54 N. H. 125, 20 Am. Rep. 128; *Monnia v. The German Insurance Co.* (1882), 12 Ill. App. (12 Bradw.) 240; *Smith v. Ratcliff* (1889), 66 Miss. 683, 14 Am. St. Rep. 606 (relying upon *Wooster v. Page*, *supra*), and disapproving of *Houghton v. Lee*, *infra*, and *Cooney v. Cooney*, *infra*. The theory upon which these courts proceed is well set forth in the leading case of *Wooster v. Page* (*supra*): "It is the furniture (i. e. the property insured) and not the avails of it in another form which is protected. * * * What is in the hands of the insurance company belonging to the defendant (the insured) is money, having no ear-mark by which it may be distinguished from any other money, and not derived by any process of transmutation from the defendant's goods; and hence the exemption which before existed cannot follow and appertain to the indebtedness of the insurance company." It should be noted, however, that in New Hampshire statutory exemptions apply only to *specific* chattels, pension, bounty and wages. N. H. Gen. St., c. 205, § 2. II. On the other hand, a larger number of courts hold that the proceeds of insurance on exempt property is not subject to garnishment. *Houghton v. Lee* (1875) 50 Cal. 101; *Langley v. Finnall et al.* (1905), 2 Cal. App. 231, 83 Pac. 291; *Cameron v. Fay* (1881), 55 Tex. 58; *Ward et al. v. Goggan* (1893), 4 Tex. Civ. App. 274; *Cooney v. Cooney* (1873), 65 Barb. (N. Y.) 524; *Bliss et al. v. Raynor* (1895), 91 Hun 250, 36 N. Y. S. 156; *Reynolds v. Haines* (1891), 83 Iowa 342, 32 Am. St. Rep. 311, 13 L. R. A. 719; *Puget Sound, etc. Co. v. Jeffs* (1895), 11 Wash. 466, 48 Am. St. Rep. 885 (relying upon *Reynolds v. Haines*, *supra*); *Winsor v. McLachlan* (1895), 12 Wash. 154. In *Reynolds v. Haines* (*supra*), a physician was held to be entitled to the insurance money on his library which was by statute exempt from execution. The court says that, as the physician might sell his books and replace them by better ones without violating the letter of the statute, so he should likewise be permitted to retain the insurance money for the same purpose. *Puget Sound, etc. Co. v. Jeffs* (*supra*), permits the exemption only in case the insured intends to invest the proceeds of the insurance in property similar to that destroyed. It would seem that, by the weight of authority and the better reason, the insurance money which stands in lieu of exempt property should not be subject to garnishment. While a debtor cannot voluntarily sell exempt property and hold the proceeds free from all attack, the situation is entirely different where the property is converted into a mere right of action by a proceeding wholly *in invitum*. *DRAKE, ATTACH.* (7th ed.), § 244a. Such is the case where the property is burned. The more recent decisions and the leading text-writers refuse to accept the technical reasoning of *Wooster v. Page* (*supra*), and almost uniformly support the

position of the principal case. FREEMAN, EXECUTIONS (3rd ed.), § 235; DRAKE, ATTACH. (7th ed.), § 244 ff; ROOD, GARNISHMENT, § 98; 12 AM. & ENG. ENC. OF LAW, 152; 18 CYC. 1444.

INFANTS—DISAFFIRMING DEED—EJECTION.—P., while an infant, had deeded away certain real estate, and after he had attained his majority he attempted to disaffirm his conveyance. He made no re-entry, nor did he give any notice of his disaffirmance. In an action of ejectment to recover the lands conveyed, *held*, that before an action of ejectment can be maintained by one who deeded lands while an infant, he must disaffirm the deed before, and otherwise than by bringing the action. *Tomczek v. Wieser et al.* (1908), 108 N. Y. Supp. 784.

There is still some conflict as to what acts constitute a disaffirmance by the infant. The court in the principal case recognized this conflict, but followed the decisions of New York and Indiana. A leading case on this subject is *Bool v. Mix*, 17 Wend. (N. Y.) 119, 31 Am. Dec. 285. In this case the court held that before an action can be maintained, the infant grantor must have made an entry on the premises, and executed a second deed, or have done some other act of equal notoriety in disaffirmance of his first deed. Similar holdings are found in *Dominick v. Michael*, 4 Sandf. (N. Y.) 374; *Voorhies v. Voorhies*, 24 Barb. (N. Y.) 150; *Tucker v. Moreland*, 10 Pet. (U. S.) 58. The Indiana decisions are to the same effect. See *Clawson v. Doe*, 5 Blackf. (Ind.) 300, in which the court held that a previous notice of intention must have been given; *Doe v. Abernathy*, 7 Blackf. (Ind.) 442; *Law v. Long*, 41 Ind. 586; *Scranton v. Stewart*, 52 Ind. 68; *Sims v. Bardoner*, 86 Ind. 87, 44 Am. Rep. 263, in which it was held that it is the disaffirmance which avoids the deed, and not the bringing of the action to recover the land conveyed; *Schroyer v. Pittinger*, 31 Ind. App. 158, 67 N. E. 475. In *Sims v. Everhardt*, 102 U. S. 300, it was held that a notice of disaffirmance and a bringing of suit will avoid a deed, but the question whether a bringing of suit alone would avoid it does not seem to have been raised. See *Haynes v. Bennett*, 53 Mich. 15, 18 N. W. 539. The following cases hold that any act on the part of the grantor after he attains his majority, which shows to the world that he does not intend to be bound, is sufficient to avoid his deed. *Slaughter v. Cunningham*, 24 Ala. 260, 60 Am. Dec. 463, but in this case it was held that if possession of land had passed, an entry would be necessary before ejectment would lie; *Bagley v. Fletcher*, 44 Ark. 153; *Hastings v. Dollarhide*, 24 Cal. 195; *Illinois Land and Loan Co. v. Beem*, 2 Ill. App. 390; *State v. Plaisted*, 43 N. H. 413. The majority of courts hold that a bringing of suit alone by the grantor after he has reached his majority is sufficient to avoid his deed. See *Greenwood v. Coleman*, 34 Ala. 150; *Schaffer v. Lavretta*, 57 Ala. 14; *McCarthy v. Nicrosi*, 72 Ala. 332, 47 Am. Rep. 418; *Slater v. Rudderforth*, 25 App. D. C. 497; *Chadbourne v. Rackliff*, 30 Me. 354; *Webb v. Hall*, 35 Me. 336; *Craig v. Van Bebber*, 100 Mo. 584, 13 S. W. 906, 18 Am. St. Rep. 569; *Clark v. Tate*, 7 Mont. 171, 14 Pac. 761; *Drake v. Ramsay*, 5 Ohio 252; *Birch v. Linton*, 78 Va. 584, 49 Am. Rep. 381; *Gillespie v. Bailey*, 12 W. Va. 70, 29 Am. Rep. 445.